

**Introduced by Senators Figueroa, Perata, and Romero**  
(Coauthor: Assembly Member Dutra)

February 21, 2003

---

An act to add Section 1252.5 to the Health and Safety Code, relating to hospitals.

LEGISLATIVE COUNSEL'S DIGEST

SB 828, as introduced, Figueroa. Health facilities: boutique hospitals.

Existing law provides for the licensure and regulation of health facilities, administered by the State Department of Health Services.

Existing law requires any health facility that maintains and operates an emergency department to provide emergency services to the public, to provide emergency services and care to any person requesting the services, and to any person for whom services and care is requested.

Existing law provides for the Medi-Cal program, administered by the department, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons.

This bill would prohibit the department from issuing a license to operate a "boutique hospital," as defined, that limits its admissions or services, as specified, unless that boutique hospital agrees to continuously maintain and operate an emergency department, participate in the Medi-Cal program, and provide emergency services and care to nonpaying and low-reimbursed patients, as prescribed.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) General acute care hospitals throughout California operate emergency departments and provide vital emergency medical services to patients requiring immediate medical care.

(b) Federal and state laws require hospitals that operate an emergency department to provide certain emergency services and care to any person, regardless of that person's ability to pay. Accordingly, these hospitals encounter significant financial losses when treating uninsured or underinsured patients.

(c) In the 1998–99 fiscal year, hospitals operating emergency departments lost three hundred sixteen million five hundred seventy-six thousand dollars (\$316,576,000) in treating patients requiring emergency medical care.

(d) In 2001, over 66 percent of California hospitals lost money on operations, according to data compiled by the Office of Statewide Health Planning and Development.

(e) California hospitals that provide emergency room services to their communities are only able to do so because other departments of the hospital, such as cardiac surgery, orthopedics, and other surgery programs, operate at a financial gain, offsetting the significant losses incurred by the emergency departments.

(f) The ability of a hospital to continue to provide emergency services to California's insured and uninsured patients is threatened by so-called "boutique" hospitals. These are hospitals that offer only services that are profitable, such as open-heart surgery and orthopedic surgery, and do not offer services that operate at a loss, such as emergency services.

(g) If hospitals that operate emergency departments lose patients to "boutique" hospitals, emergency departments will cease to be financially viable, and will have to close, with disastrous results for the public's health.

(h) It is therefore necessary to enact this act to protect public health and ensure that hospitals throughout California can continue to provide emergency medical services to injured and ill patients.

SEC. 2. Section 1252.5 is added to the Health and Safety Code, to read:

1 1252.5. (a) (1) For purposes of this section, “boutique  
2 hospital” means either of the following:

3 (A) A hospital that limits admissions according to medical or  
4 surgical specialty, type of disease, or medical condition.

5 (B) A hospital that limits its inpatient hospital services to  
6 surgical services or invasive diagnostic and treatment procedures.

7 (2) For purposes of this section, the following are not boutique  
8 hospitals:

9 (A) A special hospital, as defined in subdivision (f) of Section  
10 1250.

11 (B) An eleemosynary hospital that does not bill patients for  
12 services provided.

13 (C) A hospital that has been granted a license on or before  
14 January 1, 2004.

15 (D) A hospital that is issued a new license in order to be rebuilt  
16 to meet state seismic safety standards if the hospital that is being  
17 rebuilt has an emergency department and the new rebuilt hospital  
18 will also have an emergency department of the same license  
19 category.

20 (b) The department may not issue a license for a boutique  
21 hospital unless the applicant hospital agrees to do all of the  
22 following:

23 (1) Continuously maintain and operate an emergency  
24 department that provides either basic or comprehensive  
25 emergency medical services, as referred to in Article 5  
26 (commencing with Section 70351) of Chapter 1 of Division 5 of  
27 Title 22 of the California Code of Regulations. For purposes of this  
28 paragraph, continuously means that the emergency department is  
29 available 24-hours a day, seven days a week.

30 (2) Participate in the Medi-Cal program.

31 (3) Provide emergency services and care to nonpaying patients  
32 and low-reimbursed patients in the same proportion, as  
33 determined by the department, as these patients are treated in  
34 nearby full-service hospitals with emergency departments that  
35 provide basic or comprehensive emergency medical services.

36 (c) If a boutique hospital that has been granted a license  
37 pursuant to subdivision (b) subsequently fails to meet any one of  
38 the requirements specified in subdivision (b), the department shall

- 1 suspend the license of that boutique hospital until the requirement
- 2 is met.

O

